

1 O'MELVENY & MYERS LLP
2 Evan M. Jones (S.B. # 115827)
3 Brian M. Metcalf (S.B. # 205809)
4 Darren L. Patrick (S.B. # 310727)
5 400 South Hope Street, 18th Floor
6 Los Angeles, CA 90071-2899
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
E-mail: ejones@omm.com
E-mail: bmetcalf@omm.com
E-mail: dpatrick@omm.com

7 Gary Svirsky (N.Y. SBN: 2899417)
8 Samantha M. Indelicato (N.Y. SBN: 5598263)
(*pro hac vice* applications pending)
9 Seven Times Square
10 New York, NY 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061
11 E-mail: gsvirsky@omm.com
E-mail: sindelicato@omm.com

12 || Attorneys for UBS AG, London Branch

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - NORTHERN DIVISION

16 In re:
17 HVI CAT CANYON, INC.,
18 Debtor.

Case No. 9:19-bk-11573-MB

Chapter 11

**DECLARATION OF SAMANTHA
INDELICATO IN SUPPORT OF UBS AG,
LONDON BRANCH'S MOTION TO
APPOINT A CHAPTER 11 TRUSTEE**

22 I, Samantha M. Indelicato, Esq., declare under penalty of perjury and 28 U.S.C. § 1746, and
23 that the following is true and correct to the best of my knowledge, information and belief:

24 1. I am a member of the bar of the State of New York and am an associate with the law
25 firm of O'Melveny & Myers LLP, Times Square Tower, 7 Times Square, New York, New York
26 10036, attorneys for UBS AG, London Branch, the senior secured creditor to the Debtor. I
27

28

1 respectfully submit this declaration in support of UBS AG, London Branch's Motion to Appoint a
2 Chapter 11 Trustee.

3 2. This court held a hearing on the Debtor's use of cash collateral on October 3-4, 2019
4 and transcripts for those two days are not yet available. I attended the hearing and make the
5 following statements based on my best recollection and notes. My statements are not intended to
6 be verbatim recitals, nor a complete transcript, but I believe are fair and accurate summaries of the
7 matters addressed. O'Melveny & Myers LLP will seek a formal transcript and will seek permission
8 to lodge it with the Court as soon as obtained.

9 3. During the hearing, Mr. Grewal and Mr. Kehl testified. Following Mr. Kehl's
10 testimony and evaluation of the budget and variance report, this Court noted that the Debtor did not
11 have enough money to pay necessary operating expenses.

12 4. Counsel for Santa Barbara regulators noted that the regulators have the power to and
13 are currently considering shutting down the Debtors operations for health and safety reasons.

14 5. All non-debtor, non-affiliate parties who spoke at the hearing on October 3-4, 2019
15 expressly stated the need for a Trustee. Several parties noted at the beginning of the hearing that
16 they planned to file motions to appoint a trustee by Monday, October 7, 2019. During the
17 Committee's closing argument, counsel for the Official Committee of Unsecured Creditors
18 requested that the Court appoint a trustee *sua sponte*.

19 6. At the conclusion of the hearing, this Court denied the Debtor's motion for use of
20 cash collateral. In explaining the decision to deny use of cash collateral, this Court stated that Mr.
21 Grewal demonstrated a lack of candor. The Court also commented that Mr. Grewal needed to be
22 cajoled and heavily cross examined before admitting to certain facts regarding the companies he
23 owns.

1 7. The Court granted the *Motion of Weltman & Moskowitz, LLP Seeking Leave to*
2 *Withdraw As Attorneys for Debtor*, effective as of October 21, 2019. The Debtor noted on the
3 record that, without the use of cash collateral, it would be unable to hire replacement counsel. The
4 Court observed on the record that the Debtor cannot appear without counsel.

5 8. Attached hereto are true and correct copies of certain exhibits offered by UBS and
6 admitted during the October 3-4, 2019 cash collateral hearing, including **Exhibits UBS-1, UBS-2,**
7 **UBS-3, UBS-4, UBS-5, UBS-6, UBS-7, UBS-8, UBS-9, UBS-10, UBS-11, UBS-12, UBS-13,**
8 **UBS-14, UBS-15, UBS-16, UBS-17, UBS-18, UBS-22, UBS-23, and UBS-58.**

9 9. Attached hereto as **Exhibit UBS-26** is a true and correct copy of the Quitclaim Deed
10 recorded July 19, 2019. This Quitclaim Deed transferred real property labeled Lakeview & Golco
11 from the Debtor to GLR, LLC.

12 10. Attached hereto as **Exhibit UBS-27** is a true and correct copy of the Quitclaim Deed
13 recorded July 19, 2019. This Quitclaim Deed transferred real property labeled Mortensen from the
14 Debtor to GLR, LLC.

15 11. Attached hereto as **Exhibit UBS-28** is a true and correct copy of the Quitclaim Deed
16 recorded July 19, 2019. This Quitclaim Deed transferred the described real property from the
17 Debtor to GRL, LLC.

18 12. Attached hereto as **Exhibit UBS-31** is a true and correct copy of the Transcript for
19 the hearing conducted on June 13, 2017 in *In re Rincon Island Limited Partnership*, Case No. 16-
20 33174-hdh11, in the United States Bankruptcy Court for the Northern District of Texas, Dallas
21 Division.

22 13. Attached hereto as **Exhibit UBS-62** is a true and correct copy of the Debtor's
23 Variance Report Through Week Ending September 22, 2019.

1 14. Attached hereto as **Exhibit UBS-69** is a true and correct copy of the Transcript of
2 the Status Conference conducted on September 23, 2019 in the above-captioned case, in this Court.
3

4 15. Attached hereto as **Exhibit UBS-70** is a true and correct copy of the Debtor's
5 Schedules [Docket No. 171] filed in the above-captioned case.
6

7 16. Attached hereto as **Exhibit UBS-71** is a true and correct copy of the United States'
8 Post-Trial Proposed Findings of Fact [Docket No. 472] in the matter of United States of America
9 and People of the State of California, Ex Rel. California Department of Fish and Wildlife and
10 California Regional Water Quality Control Board, Central Coast Region v. HVI Cat Canyon, Inc.,
11 f/k/a Greka Oil & Gas, Inc., Case No. CV 11-05097 FMO (SSx), in the United States District Court
12 for the Central District of California, Western Division.
13

14 17. Attached hereto as **Exhibit UBS-72** is a true and correct copy of the *Motion of*
15 *Debtor Pursuant to 11 U.S.C. § 365(a), Fed. R. Bankr. P. 6003(c) and 6006 and Local Rule 6006-*
16 *1 for Entry of Order Authorizing Assumption of Administration Agreement with GIT, Inc., Nunc*
17 *Pro Tunc to the Petition Date* [Docket No. 14] filed in the above-captioned case.
18

19 18. Attached hereto as **Exhibit UBS-73** is a true and correct copy of the *Interim Order*
20 *Pursuant to 11 U.S.C. §§ 105, 361, 362 and 363 Approving Use of Cash Collateral, Providing*
21 *Adequate Protection and Setting Final Hearing Pursuant to Bankruptcy Rule 4001* [Docket No.
22 43] entered in the above-captioned case.
23

24 19. Attached hereto as **Exhibit UBS-74** is a true and correct copy of the *Declaration of*
25 *Diane Sauer in Support of Dkt. Nos. 153 & 206* [ECF No. 305] filed in the above-captioned case.
26

27 20. Attached hereto as **Exhibit UBS-75** is a true and correct copy of the *Motion of*
28 *Weltman & Moskowitz, LLP Seeking Leave to Withdraw As Attorneys for Debtor* [ECF No. 172]
filed in the above-captioned case.
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1 Dated: Los Angeles, California
2 October 7, 2019
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Samantha Indelicato

PROOF OF SERVICE OF DOCUMENT

I am over the age of eighteen and not a party to this bankruptcy case or adversary proceeding.
My business address is **7 Times Square, New York, New York 10036**.

A true and correct copy of the foregoing document entitled **DECLARATION OF SAMANTHA INDELICATO IN SUPPORT OF UBS AG, LONDON BRANCH'S MOTION TO APPOINT A CHAPTER 11 TRUSTEE** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”):

Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) (“LBR”), the foregoing document will be served by the court via NEF and hyperlink to the document. On **10/7/2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Alicia Clough aclough@loeb.com, mnielson@loeb.com,ladocket@loeb.com
Marc S Cohen mscohen@loeb.com, klyles@loeb.com
Karl J Fingerhood karl.fingerhood@usdoj.gov, efile_ees.enrd@usdoj.gov
Brian D Fittipaldi brian.fittipaldi@usdoj.gov
Karen L Grant kgrant@silcom.com
Ira S Greene Ira.Greene@lockelord.com
Matthew C. Heyn Matthew.Heyn@doj.ca.gov, mcheyn@outlook.com
Brian L Holman b.holman@musickpeeler.com
Razmig Izakelian razmigizakelian@quinnemanuel.com
Jeannie Kim jkim@friedmanspring.com
Michael L Moskowitz mlm@weltnmosk.com,
jg@weltnmosk.com;aw@weltnmosk.com
Darren L Patrick dpatrick@omm.com, darren-patrick-1373@ecf.pacerpro.com
Jeffrey N Pomerantz jpomerantz@pszjlaw.com
Todd C. Ringstad becky@ringstadlaw.com, arlene@ringstadlaw.com
Mitchell E Rishe mitchell.rishe@doj.ca.gov
Daniel A Solitro dsolitro@lockelord.com, ataylor2@lockelord.com
Ross Spence ross@snowspencelaw.com,
janissherrill@snowspencelaw.com;donnasutton@snowspencelaw.com;brittanyDecot
eau@snowspencelaw.com
Christopher D Sullivan csullivan@diamondmccarthy.com,
mdomer@diamondmccarthy.com;kmartinez@diamondmccarthy.com
Jennifer Taylor jtaylor@omm.com
Fred Whitaker lshertzer@cwlawyers.com
Emily Young pacerteam@gardencitygroup.com,

1 **rjacobs@ecf.epiqsystems.com;ECFInbox@epiqsystems.com**

2 **II. SERVED BY U.S. MAIL:** On 10/7/2019, I served the following person(s) and/or entity(ies)
3 at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true
4 and correct copy thereof in a sealed envelope in the United States Mail, first class, postage
5 prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to
6 the judge will be completed no later than 24 hours after the document is filed.

7 **Olivia Arden Adendorff**
8 Gibson, Dunn & Crutcher, LLP
9 2100 McKinney Avenue, Suite 1100
10 Dallas, TX 75201

11 **Buganko**
12 930 Truxtun Avenue, Suite 102
13 Bakersfield, CA 93301

14 **Carolyn V Carollo**
15 Snow Spence Green LLP
16 2929 Allen Parkway, Suite 2800
17 Houston, TX 77019

18 **Allan B. Diamond**
19 Diamond McCarthy, LLP
20 909 Fannin, Ste. 3700
21 Houston, TX 77010

22 **Robert J. Feinstein**
23 Pachulski Stang Ziehl & Jones LLP
24 780 Third Ave., 34th Floor
25 New York, NY 10017

26 **Sid J. Garabato**
27 Epiq Corporate Restructuring, LLC
28 777 Third Avenue
29 12th Floor
30 New York, NY 10017

31 **Sheryl P Giugliano**
32 Diamond McCarthy LLP
33 295 Madison Avenue
34 27th Floor
35 New York, NY 10017

36 **Steven William Golden**
37 Pachulski Stang Ziehl & Jones LLP
38 780 Third Avenue, 34th Floor
39 New York, NY 10017

40 **Ira S. Greene**
41 Squadron, Ellenoff, Plesent, et al
42 551 Fifth Ave.
43 New York, NY 10176

1
2 **Ira S. Greene**
3 Locke Lord LLP
4 200 Vesey Street, 20th Floor
5 New York, NY 10281

6
7 **Elizabeth Mary Guffy**
8 2800 JP Morgan Chase Tower
9 600 Travis
10 Houston, TX 77002

11
12 **Brian L. Holman**
13 Musick, Peeler & Garrett LLP
14 624 S. Grand Avenue, Suite 2000
15 Los Angeles, CA 90017

16
17 **Alan H. Katz**
18 Locke Lord LLP
19 200 Vesey Street, 20th Floor
20 New York, NY 10281

21
22 **Jarrod Barclay Martin**
23 McDowell Hetherington LLP.
24 1001 Fannin, Suite 2700
25 Houston, TX 77002

26
27 **Kevin D. McCullough**
28 Rochelle McCullough L.L.P.
29 325 N. St. Paul St., Ste. 4500
30 Dallas, TX 75201

31
32 **Michael L. Moskowitz**
33 Weltman & Moskowitz, LLP
34 270 Madison Avenue, Suite 1400
35 New York, NY 10016-0601

36
37 **Jeffrey N. Pomerantz**
38 Pachulski Stang Ziehl & Jones LLP
39 10100 Santa Monica Blvd., 13th Floor
40 Los Angeles, CA 90067

41
42 **Mitchell Elliott Rishe**
43 California Department of Justice
44 Office of the Attorney General
45 300 S. Spring Street, Suite 1702
46 Los Angeles, CA 90013

47
48 **Vadim J. Rubinstein**
49 Loeb & Loeb LLP
50 345 Park Avenue
51 New York, NY 10154-0037

52
53 **William R. Spence**

1 Snow Spence Green LLP
2 2929 Allen Pkwy., Suite 2800
2 Houston, TX 77019-2125

3 **Ruth Stoner Muzzin**
4 Friedman & Springer Water LLP
350 Sansome Street
Suite 210
5 San Francisco, CA 94104

6 **Shannon Smith Thomas**
7 Rochelle McCullough, LLP
325 N. Saint Paul St., Ste. 4500
Dallas, TX 75201

8 **Patricia Tomasco**
9 Quinn Emanuel Urquhart & Sullivan
711 Louisiana St.
10 Suite 500
Houston, TX 77002

11 **Eric M. Van Horn**
12 Spencer Fane LLP
2200 Ross Avenue
13 Suite 4800 West
Dallas, TX 75201

14 **Michael D. Warner**
15 Cole Schotz P.C.
1700 City Center Tower II
16 301 Commerce St.
Fort Worth, TX 76102

17 **Weltman & Moskowitz, LLP**
18 270 Madison Ave., Ste. 1400
New York, NY 10016-0601

19 **III. SERVED BY OVERNIGHT FEDEX:** On 10/7/2019, I served the following person(s)
20 and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by
21 placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class,
postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that
mailing to the judge will be completed no later than 24 hours after the document is filed.

22 **DEBTOR:**

23 HVI Cat Canyon, Inc.
24 c/o Capitol Corporate Services, Inc.
36 S. 18th Avenue Suite D
25 Brighton, CO 80601

26 **ATTORNEYS FOR DEBTOR:**

27 Weltman & Moskowitz, LLP

1 Attn: Michael L. Moskowitz
2 270 Madison Ave., Ste. 1400
3 New York, NY 10016-0601

4 **IV. SERVED BY PERSONAL DELIVERY:**

5 Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **10/7/2019** I served the following
6 person(s) and/or entity(ies) by personal delivery, overnight mail service, or (for those who
7 consented in writing to such service method), by facsimile transmission and/or email as
follows. Listing the judge here constitutes a declaration that personal delivery on the judge
will be completed no later than 24 hours after the document is filed.

8 **JUDGE:**

9 Hon. Martin R. Barash
10 United States Bankruptcy Court
Central District of California
11 21041 Burbank Boulevard, Suite 342 / Courtroom 303
Woodland Hills, CA 91367

12
13 I declare under penalty of perjury under the laws of the United States of America that the
foregoing is true and correct.

14 Executed this 7th day of October, 2019, at Los Angeles, California.

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17 */s/ Samantha Indelicato*
18 Samantha Indelicato
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